

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Griffin Sherbert	Team: Squad #10	CCRB Case #: 202003090	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 04/28/2020 3:10 AM	Location of Incident: within the Union Square Subway station near the Transit Borough DT04 stationhouse	Precinct: 13	18 Mo. SOL 10/28/2021	EO SOL 5/4/2022	
Date/Time CV Reported Tue, 05/05/2020 1:57 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Tue, 05/05/2020 1:57 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Wade Liu	07774	958824	TB DT04
2. SGT John Zorrilla	03069	933511	TB DT04

Officer(s)	Allegation	Investigator Recommendation
A.SGT John Zorrilla	Abuse: Sergeant John Zorrilla stopped § 87(2)(b)	
B.SGT John Zorrilla	Abuse: Sergeant John Zorrilla threatened § 87(2)(b) with the use of force.	
C.SGT John Zorrilla	Abuse: Sergeant John Zorrilla threatened to remove § 87(2)(b) to the hospital.	
D.SGT John Zorrilla	Force: Sergeant John Zorrilla used physical force against § 87(2)(b)	
E.POM Wade Liu	Discourtesy: Police Officer Wade Liu gestured discourteously toward § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		

Case Summary

On May 5, 2020, § 87(2)(b) called the CCRB and filed the complaint via the Call Processing System.

On April 28, 2020, at approximately 3:10 a.m., inside of the 14th Street Union Square subway station in Manhattan, § 87(2)(b) was attempting to transfer to the L train when Sergeant John Zorrilla stopped her for not wearing a mask (**Allegation A: Abuse of Authority-Stop**, § 87(2)(g)), and ordered her to leave the station. As she repeatedly refused, Sgt. Zorrilla told § 87(2)(b) if she did not leave the station, he threatened to physically drag her up the stairs (**Allegation B: Abuse of Authority-Threat of Force**, § 87(2)(g)), and remove her to the hospital (**Allegation C: Abuse of Authority-Threat of removal to hospital**, § 87(2)(g)). When § 87(2)(b) tried to retrieve a pen and paper from her backpack, Sgt. Zorrilla grabbed her backpack, and after a brief struggle, Sgt. Zorrilla allegedly kicked § 87(2)(b)'s foot and she fell to the floor (**Allegation D: Force-Physical Force**, § 87(2)(g)). After § 87(2)(b) fell to the ground, additional officers responded, wherein Police Officer Wade Liu of Transit Borough District 04, allegedly made a non-verbal gesture toward the other officers signaling that she was crazy (**Allegation E: Discourtesy-Gesture**, § 87(2)(g)). § 87(2)(b) was transported by EMS to § 87(2)(b) and was neither arrested nor issued any summons as a result.

The investigation obtained (1) Body-Worn Camera ("BWC") video from Sgt. Zorrilla (BR01) that captured the material aspects of this incident.

Findings and Recommendations

Allegation A—Abuse of Authority: Sergeant John Zorrilla stopped § 87(2)(b)

Allegation B—Abuse of Authority: Sergeant John Zorrilla threatened § 87(2)(b) with the use of force.

Allegation C—Abuse of Authority: Sergeant John Zorrilla threatened to remove § 87(2)(b) to the hospital.

Allegation D—Force: Sergeant John Zorrilla used physical force against § 87(2)(b)

§ 87(2)(b) stated (BR02) that on April 28, 2020, at approximately 3:30 a.m., § 87(2)(b) boarded an uptown N train, and exited at 14th Street Union Square station. § 87(2)(b) walked up stairs to the main floor of Union Square subway station, wherein she was stopped by Sgt. Zorrilla and PO Liu. Sgt. Zorrilla's BWC footage (BR01), at the 40-second mark before the audio begins, shows him and PO Liu walking through the mezzanine of the Union Square subway station, when they encounter § 87(2)(b) in front of the stairs leading to the uptown N/Q/R/W Train platform. § 87(2)(b) is seen using a cane, wearing one backpack while holding a second backpack, and is not wearing a mask.

§ 87(2)(b) stated that (BR02), the officers immediately asked where her mask was and she showed the officers her scarf which she had around her neck. The officers told § 87(2)(b) to put her mask on, and although she pulled her scarf over her mouth it repeatedly fell down. Sgt. Zorrilla told § 87(2)(b) that if she did not have a mask, she needed to leave the station. § 87(2)(b) refused, and Sgt. Zorrilla told her that she could either leave the subway station on her own, or he would "drag [her] up the stairs" and remove her from the station.

At the 1:00 minute mark of Sgt. Zorrilla's BWC (BR01), as the audio begins, § 87(2)(b) states that she cannot walk upstairs, and Sgt. Zorrilla replies, "If you don't have a mask, you have to go outside." § 87(2)(b) pulls a blue scarf up over her mouth and nose, and begins walking away, stating she is going to the L train. Sgt. Zorrilla briefly follows and stops § 87(2)(b) whose blue scarf has fallen off her face. § 87(2)(b) pulls her scarf back up over her face, and Sgt. Zorrilla orders her to leave the station. § 87(2)(b) says that she cannot go upstairs, and Sgt. Zorrilla tells § 87(2)(b) she cannot stay in the subway station without a mask and must leave.

Between the 1:25 minute mark and the 2:00 minute mark of the BWC footage (BR01), § 87(2)(b) repeatedly says she is going to the L train and refuses to leave, as Sgt. Zorrilla repeatedly orders her to leave. At the 2:00 minute mark, Sgt. Zorrilla tells § 87(2)(b) "Ok, if you're not going to go

outside, then you're going to the hospital." At the 2:15 minute mark, § 87(2)(b) tells the officers she is "not going anywhere," Sgt. Zorrilla says "where's your mask," and § 87(2)(b) Day pulls the blue face covering up over her nose and mouth for brief moment before it falls down again. At the 2:25 minute mark, Sgt. Zorrilla tells § 87(2)(b) "either you go on your own," or they would forcibly remove her from the station. § 87(2)(b) replies that she cannot go upstairs, and Sgt. Zorrilla says that they will drag her upstairs.

§ 87(2)(b) (BR02) opened her backpack to get a pen and paper to write down the officers' information. However, Sgt. Zorrilla simultaneously grabbed her backpack, and they struggled to pull it away from each other. Amidst the struggle, § 87(2)(b) stated that her cane fell to the ground, Sgt. Zorrilla kicked her right foot one time, and she screamed in pain and fell to the ground. § 87(2)(b) noted that she had been to the hospital a few days prior to the incident, for pre-existing foot injury. After she fell to the ground, Sgt. Zorrilla allegedly told § 87(2)(b) "That's what you get for kicking me," although § 87(2)(b) denied that she kicked Sgt. Zorrilla at any point during the incident.

At the 2:50 minute mark of his BWC (BR01), as § 87(2)(b) begins to unzip her backpack, Sgt. Zorrilla quickly grabs the backpack, and the two struggle over it by pulling back and forth. § 87(2)(b) is heard screaming "gimme!" and "get off of me!" as they struggle as PO Liu grabs and holds onto § 87(2)(b)'s other backpack from behind. At the 3:01 minute mark, § 87(2)(b) screams, "My foot!" and suddenly lowers herself backwards onto the floor. The BWC footage does not capture Sgt. Zorrilla kick § 87(2)(b) or say anything to the effect "that's what you get for kicking me." However, following the incident, § 87(2)(b) was removed to § 87(2)(b) in Manhattan to receive treatment for pain to her foot.

Sgt. Zorrilla's (BR03) and PO Liu's (BR04) statements were consistent and generally reflective of the BWC footage above, except where noted otherwise below.

On April 28, 2020, at approximately 3:30 a.m., while conducting foot patrol within the Union Square subway station in Manhattan, Sgt. Zorrilla and PO Liu saw § 87(2)(b) within the station without a mask, and stopped her in regards. The officers stated that, on the date and time of the incident, per Governor Cuomo's executive order and MTA policy, essential workers were the only civilians allowed to use the MTA subway system, and everyone was required to wear a mask or face covering. Sgt. Zorrilla informed § 87(2)(b) that she needed to wear a mask or face covering while using the subway system. Sgt. Zorrilla acknowledged that § 87(2)(b) had some kind of face covering, but noted it would not stay over her nose and mouth. § 87(2)(b) told the officers that she was not going anywhere, and refused to leave the station.

The officers repeatedly told § 87(2)(b) that she needed to leave the station, and she refused and said she was not able to, and became louder during the dispute. Sgt. Zorrilla stated (BR03) that he told § 87(2)(b) if she continued to refuse to leave, he and PO Liu would remove her from the station. Although Sgt. Zorrilla did not recall telling § 87(2)(b) he would "drag her" out of the station or threatening to remove her to the hospital, he did not dispute the accuracy of his BWC footage. Sgt. Zorrilla added that because § 87(2)(b) stated she had just recently got out of the hospital, and complained of not being able to walk upstairs, he thought § 87(2)(b) might need medical attention.

After her repeated refusals to comply, the officers attempted to escort § 87(2)(b) from the station, wherein PO Liu (BR04) stood behind § 87(2)(b) and tried to move her forward by lightly pushing against her back with one hand, while Sgt. Zorrilla grabbed § 87(2)(b)'s arm and lightly pulled. However, § 87(2)(b) grabbed the nearby handrail, braced herself against it, and tensed her body to prevent the officers from removing her from the station. Sgt. Zorrilla stated that, after a brief struggle, § 87(2)(b) let go of the rail, "charged" at him, kicked his foot, and then fell to the ground. On the ground, § 87(2)(b) screamed that Sgt. Zorrilla hurt her leg by kicking it. Sgt. Zorrilla (BR03) denied that he kicked § 87(2)(b)'s foot, and PO Liu (BR04) did not witness Sgt. Zorrilla kick § 87(2)(b)'s foot.

All persons on or in any facility or conveyance of the authority shall: comply with all lawful orders and directives of any police officer, peace officer or any employee of the authority or the MTA acting within the scope of their employment, including one pursuant to an order or directive issued

by the Governor of the State of New York pursuant to a state disaster emergency relating to public health or by the MTA that includes requiring the wearing of masks or face coverings by an individual who is over the age of two and is able to medically tolerate a face-covering. Masks or face coverings must be worn in a manner covering the nose and mouth. Any person who does not comply with such an order or directive requiring wearing of masks or face coverings in a manner covering the nose and mouth may be barred from entering or remaining on or in any facility or conveyance of the authority, in addition to a fine of \$50. Codes, Rules and Regulations of the State of New York, Title 21 (“21 CRR-NY”) § 1050.6 (d)(1) [pursuant to Gov. Cuomo Executive Order No. 202.18, April 16, 2020] (BR05).

Any person who is observed by a police officer to be violating any of these rules and who may receive or has received a notice of violation therefore is subject to ejection from the facilities. 21 CRR-NY, § 1050.11 (BR05).

Any police officer or other person(s) designated by the president of the authority shall be empowered to issue a notice of violation for violation of any of these rules. 21 CRR-NY, § 1050.12 (BR05).

The NYPD Patrol Guide defines an emotionally disturbed person (“EDP”) as a person who appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others. Patrol Guide, Procedure 221-13 (BR06)

Sgt. Zorrilla stopped § 87(2)(b) after observing her within the Union Square subway station without a mask or face covering, in violation of Governor Cuomo’s executive order and the amended MTA Rules and Policies. Although § 87(2)(b) had a blue scarf she attempted to cover her nose and mouth with, by her own admission, it was not effective and repeatedly fell from her face. § 87(2)(g)

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Sgt. Zorrilla’s BWC (BR01) shows that after § 87(2)(b) refused to put on a mask and leave the station, Sgt. Zorrilla stated, “Ok, if you’re not going to go outside, then you’re going to the hospital.” § 87(2)(g)

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§ 87(2)(b) alleged that Sgt. Zorrilla kicked her as she was trying to grab a pen out of her bag, and Sgt. Zorrilla testified that § 87(2)(b) held on to a handrail, refused to move, and kicked him. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation E—Discourtesy: Police Officer Wade Liu gestured discourteously toward § 87(2)(b)

§ 87(2)(b)

After falling to the ground following the struggle with Sgt. Zorrilla, § 87(2)(b) stated (BR02) that several additional officers responded. § 87(2)(b) stated that, while the additional officers stood around her, PO Liu made a non-verbal gesture toward the other officers—“pointing his finger at his head, twirling it, going around in circles”—which § 87(2)(b) understood as PO Liu signaling to the other officers that she was crazy. Sgt. Zorrilla and the other officers ordered § 87(2)(b) to stand up and leave the subway station, but she refused and said she could not get up because of the pain in her foot, and one of the officers called for EMS to respond.

A few minutes later, two EMTs arrived and transported § 87(2)(b) to § 87(2)(b) in Manhattan, where she received x-rays of her right foot but did not know the results, was given ibuprofen for the pain, and was released two or three hours later.

While Sgt. Zorrilla (BR03) did not witness PO Liu make any kind of gesture in reference to § 87(2)(b) PO Liu (BR04) could not recall if he gestured to the other officers by making circles with his index finger near his head, or recall if he called § 87(2)(b) ignorant, or made any other remark with reference to her mental health.

The mission of the New York City Police Department is to enhance the quality of life in New York City by working in partnership with the community to enforce the law, preserve peace, protect the people, reduce fear, and maintain order. [...] In partnership with the community, we pledge to: Protect the lives and property of our fellow citizens and impartially enforce the law. Fight crime, both by preventing it and aggressively pursuing violators of the law. Maintain a higher standard of integrity than is generally expected of others because so much is expected of us. Value human life, respect the dignity of each individual and render our services with courtesy and civility. Patrol Guide, Procedure 200-02 (BR07).

§ 87(2)(g)

[REDACTED]

§ 87(4-b), § 87(2)(g)

[REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint in which § 87(2)(b) is a party.
- Sgt. Zorrilla, a 17-year-member-of-service, has had nine prior CCRB complaints against him, with a total of 25 allegations, three of which were substantiated (see Officer History). § 87(2)(g)
§ 87(2)(g)
 - In CCRB # 201507072, an interference with recording device allegation was pleaded against Sgt. Zorrilla, which the CCRB substantiated and recommended a Command B Discipline, and the NYPD declined to take disciplinary action and issued no penalty in regards.
 - In CCRB #201509988, pepper spray and retaliatory arrest allegations were pleaded against Sgt. Zorrilla, which the CCRB substantiated and recommended a Command B Discipline, and the NYPD concurred and issued Command B Disciplines to Sgt. Zorrilla in regards.
- PO Liu, a five-year-member-of-service, has had one prior CCRB complaint against him, with a total of two allegations, which have not been substantiated (see Officer History). § 87(2)(g)
§ 87(2)(g)
 - In CCRB #202001757, physical force and § 87(2)(g) allegations have been pleaded against PO Liu, pending investigation.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- As of December 23, 2020, neither § 87(2)(b) nor an attorney on her behalf has filed a Notice of Claim with the NYC Comptroller's Office in regards to this incident (BR09).
- According to the Office of Court Administration, § 87(2)(b) has not been criminally convicted in NYC (BR10).

Squad No.: 7

Investigator: Griffin Sherbert Griffin Sherbert 04/22/2021
Signature Print Title & Name Date

Squad Leader: _____

Signature _____

Manager Vanessa Rosen _____

Print Title & Name _____

April 22, 2021 _____

Date _____

Reviewer: _____

Signature _____ Print Title & Name _____ Date _____